



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/742,510	12/20/2000	Lothar Wenzel	5150-48000	8437

7590

09/05/2003

Jeffrey C. Hood
Conley, Rose & Tayon, P.C.
P.O. Box 398
Austin, TX 78767

EXAMINER

VU, KIEU D

ART UNIT

PAPER NUMBER

2173

DATE MAILED: 09/05/2003

3

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/742,510

Applicant(s)

WENZEL ET AL.

Examiner

Kieu D Vu

Art Unit

2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The specification is objected because the Provisional Application Number cited on page 1 is incorrect. The correct Provisional Application number should be 60/149942.
2. The specification is objected since it does not contain the serial number of a related application listed on page 16 (line 9) and page 44 (line 28).
3. The abstract is objected since it exceeds 150 words.

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Oath/Declaration

4. A new oath or declaration is required because the Provisional Application Number is incorrect. The correct Provisional Application number should be 60/149942. The wording of an oath or declaration cannot be amended. If the wording is not correct or if all of the required affirmations have not been made or if it has not been properly subscribed to, a new oath or declaration is required. The new oath or declaration must properly identify the application of which it is to form a part, preferably by application

Art Unit: 2173

number and filing date in the body of the oath or declaration. See MPEP §§ 602.01 and 602.02.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 25 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 25 recites the limitation "the determine representation". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-4, 11-18, 20-25, 30-33, 37-40, and 44 are rejected under 35 U.S.C. 102(e) as being anticipated by McDonald et al ""McDonald", USP 5966532).

Regarding claims 1, 30 and 38, McDonald teaches a method for programmatically generating a second graphical program based on a first graphical program comprising receiving information specifying the first graphical program (col 4,

Art Unit: 2173

lines 11-12), programmatically generating the second graphical program based on the information and the second graphical program implements functionality of the first graphical program (col 4, lines 3-9).

Regarding claims 2 and 31, McDonald teaches that second graphical program performs substantially like the first graphical program (col 4, lines 7-10).

Regarding claims 3, 32, and 39, McDonald teaches the first graphical program and the second graphical program implements the first functionality (objects or controls).

Regarding claims 4 and 40, McDonald teaches second graphical program implements only a portion of functionality of the first graphical program (col 3, lines 66-67).

Regarding claims 11-12, 37, and 44, McDonald teaches that first graphical program and the second graphical program are associated with different programming development environment (col 10, lines 3-10).

Regarding claim 13, McDonald teaches a first programming language and the second programming language (col 2, lines 25-29).

Regarding claim 14, McDonald teaches the first graphical programming language is the G language (col 3, lines 65-66).

Regarding claim 15, McDonald teaches the second graphical programming language is the G language (col 3, lines 65-66).

Regarding claim 16, McDonald teaches a data flow program (col 20, line 11-12).

Art Unit: 2173

Regarding claims 17-18, McDonald teaches the compiling and executing the second graphical program (col 4, lines 3-80).

Regarding claims 20-21, McDonald teaches that the first graphical program and the second graphical program are LabVIEW program (col 9, line 63).

Regarding claims 22-23, McDonald teaches that information specifying the first graphical program comprises text information and abstract information (col 13, lines 22-28).

Regarding claim 24, McDonald teaches that information specifying the first graphical program comprises file (col 19, lines 66-67).

Regarding claim 25, McDonald teaches the creating the second graphical program based on the determined representation (col 5, lines 12-22).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 5-10, 26-29, 34-36, and 41-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over McDonald and Sojoodi et al ("Sojoodi", USP 6437805).

Regarding claims 5, 34, and 41, McDonald teaches does not teach the graphical program includes interconnected nodes. However, such feature is known in the art as taught by Sojoodi. Sojoodi teaches a system for accessing object capabilities in a graphical program which comprises arranging and connecting plurality of nodes in a

Art Unit: 2173

graphical program (col 5, lines 40-47). It would have been obvious to one of ordinary skill in the art, having the teaching of McDonald and Sojoodi before him at the time the invention was made, to modify the graphical program taught by McDonald to include interconnected nodes taught by Sojoodi with the motivation being to enhance the visualization of the program.

Regarding claim 6, Sojoodi teaches that interconnected nodes visually indicate the first functionality of the second graphical program (col 5, lines 41-47).

Regarding claims 7, 35, and 42, Sojoodi teaches that interconnected nodes are interconnected according to data flow (col 5, lines 46-47).

Regarding claims 8-10, 36, and 43, McDonald teaches the comprising block diagram (step 266 in Fig. 5) and graphical user interface (col 4, lines 62-64).

Regarding claim 26, Sojoodi teaches the comprising constructing a directed graph representation of the graphical program (col 5, lines 41-45).

Regarding claim 27, McDonald teaches the comprising data structures (col 16, lines 38-40).

Regarding claim 28, McDonald teaches the receiving information specifying the nodes (col 5, lines 63-65).

Regarding claim 29, McDonald teaches that nodes have particular functionality (col 5, lines 48-52).

11. Claims 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over McDonald and Kadtke et al ("Kadtke", USP 6401057).

Regarding claim 19, McDonald does not teach the Simulink program. However, such feature is known in the art as taught by Kadtke. Kadtke teaches a data

Art Unit: 2173

classification system which comprises the use of Simulink package (col 6, lines 6-8). It would have been obvious to one of ordinary skill in the art, having the teaching of McDonald and Kadtke before him at the time the invention was made, to modify the graphical program taught by McDonald to include the use of Simulink program taught by Kadtke with the motivation being to apply the system in different programs.

12. The prior art made of record on form PTO-892 and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 C.F.R. § 1.111(c) to consider these references fully when responding to this action. The documents cited therein teach about graphical program which relates to the claimed invention.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kieu D. Vu whose telephone number is (703-605-1232). The examiner can normally be reached on Mon - Thu from 7:00AM to 3:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca, can be reached on (703- 308-3116).

The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(703)-746-7238 (After Final Communication)

or

(703)-746-7239 (Official Communications)

(703)-746-7240 (For Status Inquiries, draft communication)

and / or:

(703)-746-5639 (use this FAX #, only after approval by Examiner, for

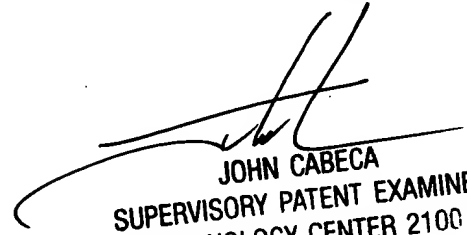
"INFORMAL" or "DRAFT" communication. Examiners may request that a formal paper / amendment be faxed directly to them on occasions)

Art Unit: 2173

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703-305-3900).

Kieu D. Vu

08/20/03



JOHN CABECA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100